



# RULE-MAKING ORDER

CR-103E (May 2009)  
(Implements RCW 34.05.360)

Agency: Employment Security Department

Emergency Rule Only

**Effective date of rule:**

**Emergency Rules**

- ☐ Immediately upon filing.  
☒ Later (specify) September 13, 2009

**Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?**  
☐ Yes ☒ No If Yes, explain:

**Purpose:** Engrossed Substitute House Bill 1906 was passed by the 2009 legislature and was effective immediately. Sections 4 and 5 of the bill make changes to the training benefits program established under Chapter 50.22 RCW. Portions of section 4 apply to unemployment claims filed on or after September 13, 2009. This rule-making order modifies existing rules and adopts new rules consistent with these changes pending the adoption of permanent rules.

**Citation of existing rules affected by this order:**

Repealed:

Amended: WAC 192-270-010, WAC 192-270-015, WAC 192-270-050

Suspended:

**Statutory authority for adoption:** RCW 50.12.010, RCW 50.12.040, RCW 50.22.150, and Chapter 3, Laws of 2009, section 4.

**Other authority :**

**EMERGENCY RULE**

Under RCW 34.05.350 the agency for good cause finds:

- ☒ That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.
- ☐ That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.
- ☐ That in order to implement the requirements or reductions in appropriations enacted in any budget for fiscal years 2009, 2010, or 2011, which necessitates the need for the immediate adoption, amendment, or repeal of a rule, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the fiscal needs or requirements of the agency.

Reasons for this finding: ESHB 1906 makes significant changes to the training benefits program. These changes include eligibility criteria for program participation and for approval of training plans for claims effective September 13, 2009 and later. There was insufficient time since the passage of ESHB 1906 to complete rule-making. These rules are necessary to implement the changes in the law governing eligibility for training benefits until permanent rules can be adopted.

Date adopted:

9-11-09

NAME (TYPE OR PRINT)

Paul Trause

SIGNATURE

Paul Trause

TITLE

Deputy Commissioner

**CODE REVISER USE ONLY**

CODE REVISER'S OFFICE  
STATE OF WASHINGTON

SEP 11 2009

9:25  
09-19-049

(COMPLETE REVERSE SIDE)

**Note: If any category is left blank, it will be calculated as zero.  
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.  
A section may be counted in more than one category.**

**The number of sections adopted in order to comply with:**

<b>Federal statute:</b>	New	_____	Amended	_____	Repealed	_____
<b>Federal rules or standards:</b>	New	_____	Amended	_____	Repealed	_____
<b>Recently enacted state statutes:</b>	New	<u>4</u>	Amended	<u>3</u>	Repealed	_____

**The number of sections adopted at the request of a nongovernmental entity:**

New	_____	Amended	_____	Repealed	_____
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**The number of sections adopted in the agency's own initiative:**

New	_____	Amended	_____	Repealed	_____
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**The number of sections adopted in order to clarify, streamline, or reform agency procedures:**

New	_____	Amended	_____	Repealed	_____
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**The number of sections adopted using:**

<b>Negotiated rule making:</b>	New	_____	Amended	_____	Repealed	_____
<b>Pilot rule making:</b>	New	_____	Amended	_____	Repealed	_____
<b>Other alternative rule making:</b>	New	_____	Amended	_____	Repealed	_____

AMENDATORY SECTION (Amending WSR 01-11-085, filed 5/16/01, effective 6/16/01).

**WAC 192-270-010 Employment separations for dislocated workers—Chapter 3, laws of 2009, § 4(2)(a).** As a dislocated worker, you must have been terminated or received a notice of termination from your employer to be eligible for training benefits. Training benefits are not available if you left work voluntarily as provided in RCW 50.20.050, regardless of whether you had good cause for leaving, or if you are disqualified from benefits for work-related misconduct under RCW 50.20.060 or RCW 50.20.066, and have not requalified for benefits.

When ((determining)) deciding whether your separation from employment makes you eligible for training benefits, the department will look at the last job you held for a period of at least seven weeks ((that was)) in employment covered by Title 50 RCW or the comparable laws of another state.

AMENDATORY SECTION (Amending WSR 01-11-085, filed 5/16/01, effective 6/16/01)

**192-270-015 Dislocated Workers -- Unlikely to return to employment—Chapter 3, laws of 2009, § 4(2)(a) and RCW 50.04.075.** Except as provided in ((RCW 50.22.150(3))) Chapter 3, laws of 2009, § 4(6), the term "unlikely to return to employment" means, but is not limited to, situations where:

- (1) You have:
    - (a) Become unemployed due to a permanent plant closure;
    - (b) Received a federal WARN act notice; or
    - (c) Received a notice of indefinite layoff as a result of a permanent reduction of operations at your place of employment;
- and

(2) Suitable work for individuals with your skills is in diminishing demand within your labor market.

NEW SECTION

**WAC 192-270-017 Military veterans—Chapter 3, laws of 2009, § 4(2)(b)(ii).**

(1) The term "during the twelve-month period" means the individual served in the United States military or Washington National Guard at any point during the twelve-month period prior to application date.

(2) The term "application date" means the date on which the individual filed an initial application for unemployment benefits.

NEW SECTION

**WAC 192-270-018 Members of the Washington National Guard—Chapter 3, laws of 2009, § 4(2)(b)(iii).** The term "currently serving" does not include reserve members of the Washington National Guard.

NEW SECTION

**WAC 192-270-019 Disabled individuals—Chapter 3, laws of 2009, § 4(2)(b)(iv).** (1) For purposes of this section:

(a) "Injury" means a trauma to the integrity or function of a tissue or organ and the resulting physical conditions;

(b) "Illness" means a condition marked by an obvious deviation from the normal healthy state, characterized by sickness, disease, or other disorder. Alcohol abuse, drug abuse, antisocial behavior, or criminal history alone, or your commitment to a treatment facility, is insufficient by itself to show "illness" within the meaning of this section.

(2) Verification of your injury or illness may, at the department's discretion, require verification from a physician.

NEW SECTION

**WAC 192-270-047 Incomplete applications.** An application that is incomplete will be returned to you for completion. The filing of an incomplete application does not extend the timeframes under WAC 192-270-035 for filing a completed application for training benefits.

AMENDATORY SECTION (Amending WSR 01-11-085, filed 5/16/01, effective 6/16/01)

**WAC 192-270-050 Criteria for approving training plans.** (1) The department will consider the following factors when reviewing your application for training benefits:

(a) Whether you have a current benefit year as required by RCW 50.22.010(9);

~~(b) Whether suitable employment is available in the labor market in which you currently reside (if you were originally determined to be a dislocated worker, but moved from the area where your skills were declining to an area where your skills are in demand, you are not eligible for training benefits);~~

~~((+e))~~ Your plan for completion of the training including, but not limited to, ~~((what))~~ the financial resources you intend to use to ~~((fund the))~~ complete your training ~~((plan))~~ when training benefits run out;

~~((+d))~~ (c) Whether you have the qualifications and aptitudes to successfully complete the training;

~~((+e))~~ (d) For each of the following categories of workers:

(i) Dislocated workers under chapter 3, laws of 2009, § 4(2)(a): Whether suitable employment is available in the labor

market in which you currently reside and whether the training is likely to enhance your marketable skills and earning power, based on an assessment of what your earning power would be if training were not provided. If you were originally determined to be a dislocated worker, but moved from the area where your skills were declining to an area where your skills are in demand, you are not eligible for training benefits.

(ii) **Low income workers under chapter 3, laws of 2009, § 4(2) (b) (i):** Whether vocational training is likely to enhance your earning potential. This consists of training for a career in a demand occupation that will likely result in suitable, stable employment.

(iii) **For military veterans, current members of the Washington National Guard, and disabled individuals under chapter 3, laws of 2009, § 4(2) (b) (ii), (iii) and (iv):** Whether training is needed to assist you in finding suitable work in your labor market.

(e) Whether the training relates to a high demand occupation(~~((, meaning))~~).

(i) For claims with an effective date prior to April 5, 2009, "high demand" means that the number of job openings in the labor market for the occupation or with that skill set exceeds the supply of qualified workers.

(ii) For claims with an effective date on or after April 5, 2009, "high demand" means an occupation with a substantial number of current or projected employment opportunities;

(f) Whether the training is likely to enhance your marketable skills and earning power, based on an assessment of what your employment prospects would be if training were not approved; and

(g) (~~((Effective July 1, 2001,))~~) Whether the educational institution and training program meet(~~((s))~~) the performance

criteria established by the workforce training and education coordinating board.

(2) Academic training may be approved if it meets the criteria of subsection (1) and it meets specific requirements for certification, licensing, or specific skills necessary for the occupation.

(3) The department may approve educational training that has been identified as necessary by the training facility as a prerequisite to a vocational training program that meets the criteria of subsection (1).

~~((4) In the case of individuals with physical or sensory disabilities, or in other unusual circumstances, a written decision of the commissioner may waive any of the requirements of this section on an individual basis.))~~